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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,628	09/08/2003	Claire J. Saintil-van Goodman	CLAIRE/001	3438
1473	7590	08/10/2005	EXAMINER	
FISH & NEAVE IP GROUP ROPES & GRAY LLP 1251 AVENUE OF THE AMERICAS FL C3 NEW YORK, NY 10020-1105			REESE, DAVID C	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/658,628	SAINTIL-VAN GOODMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David C. Reese	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 June 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) 1-6 and 12-18 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 7-11 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 08 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

*Status of Claims*

[1] Claims 1-6, and 12-18 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely did not traverse the restriction (election) requirement in the reply filed on 6/20/2005; so therefore, the election is treated as an election without traverse. Further, since the applicant did not select a set of claims readable onto the selected species (Figs. 1a-1c) the examiner deems claims 7-11 as the only claims readable onto said species and are thus the only claims examined to their merits.

The requirement is still deemed proper and is therefore made FINAL.

[2] Claims 1-18 are pending.

*Drawings*

[3] New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings should exemplify more detail and better quality. Fig. 1, for example, though a general overview of the claimed invention, should still be of better quality and detail, so that paramount attributes and specifications of the claimed invention are more efficiently presented, and thus differentiated from other art. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the

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Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

- [4] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- [5] Claims 7-11 are rejected under 35 U.S.C. 102(b) as clearly anticipated by Chang, US-6,243,921, because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

The shape and appearance of Chang is identical in all material respects to that of the claimed design, *Hupp v. Siroflex of America Inc.*, 122 F.3d 1456, 43 USPQ2d 1887 (Fed. Cir. 1997).

As for Claim 7, Chang teaches clip assembly comprising:

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a jewelry housing (11 in Fig. 5) that is not operable to be opened, said jewelry housing (11) having an exterior surface (11) and an interior storage space (inside 12' in Fig. 6); and  
a tether (2) having a first and second end, wherein said tether is self-retractable into said interior storage space (inside 12' in Fig. 6) of said jewelry housing (11).

Re: Claim 8, further comprising:

a fixture (13 in Fig. 2) located on said exterior surface (11);  
an attachment (3, 31,32,41) on said first end of said tether that is operable to mate with said fixture (13).

Re: Claim 9, further comprising an aperture (121) extending from said interior storage space to said exterior surface, wherein said aperture (121) has an aperture diameter that is greater than the diameter of said tether (2) and said attachment (3, 31,32,41) is not operable to fit through said aperture (121) diameter.

Re: Claim 10, wherein said interior storage surface further comprising:

a spiral spring (15) having a first and second spiral spring end;  
an axle (123);  
a hollow spindle (14), wherein said first spiral spring end is fixed to said axle and said second spiral spring end is fixed to said spindle, wherein said second end of said tether is fixed to the exterior of said hollow spindle (Figs. 2-4).

Re: Claim 11, wherein said tether (2) is a transparent wire, a wire, a chain, a band, or a belt.

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***Conclusion***

[6] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited further to show the state of the art with respect to this particular type of item; as well as their extreme relevance to the current application as many read extensively onto the claimed invention: please see submitted notice of reference cited.

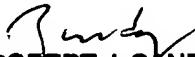
[7] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (571) 272-7075. Until July 14<sup>th</sup>, the fax phone number for the organization where this application or proceeding is assigned is 703-872-9306; starting July 15<sup>th</sup>, however, the new fax phone number will be (571) 273-8300, please make note.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,  
David Reese  
Assistant Examiner  
Art Unit 3677

DCR

  
ROBERT J. SANDY  
PRIMARY EXAMINER